REMARKS

Claims 1 and 5-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kotsuki et al., JP 2002-042813 ("Kotsuki"). If not anticipated, the claims are considered to be obvious under 35 U.S.C. 103(a).

The Office alleges that Kotsuki discloses each of the limitations of each of the claims of the application. Kotsuki discloses a lithium secondary battery in which a lithium transition metal complex oxide containing substantially the same percentage composition of Ni and Mn is an active material for the positive electrode of the battery. However, Kotsuki does not disclose anything concerning the BET specific surface area or pH value (measured according to the conditions recited in claim 1 of the present application) of the complex oxide. In the paragraph beginning at the bottom of page 3 of the Action the Office appears to suggest that the claimed BET specific surface area and the pH are inherent properties of the complex oxide disclosed in Kotsuki because the complex oxide disclosed in Kotsuki is "the same positive electrode material as the Application." (Action, page 3, lines 1-2 from the bottom of the page).

Applicants respectfully submit that the pH values recited in the claims of the present application are not disclosed in Kotsuki.

and are not inherent. As described in the specification of the present application, certain techniques are required to adjust the pH level of the positive electrode active material to be within the range of 9.0 - 11.0 (paragraph bridging pages 9 and 10). I.e., the pH value of the lithium transition metal complex oxide recited in the claims of the present application is the result of such techniques. These techniques are not disclosed or suggested by Kotsuki and Kotsuki does not otherwise disclose or suggest manipulating the pH value of the positive electrode active material.

Applicants note that the recitation in claim 1 of the present application "when it is immersed in purified water in the amount of 5 g per 50 ml of the purified water" is directed to a procedure of measuring of the pH value. As described in the specification of the present application, different procedures of measuring pH value can give different pH values (see the page 6, line 3, to page 7, line 2, and page 9, lines 12 to 24, of the specification of the present application).

According to Examples 1 to 3 of the specification of the present application, the lithium transition metal complex oxides were rinsed with water for 24 hours in order to adjust the pH values to 11.0 or lower. In Comparative Examples 1 and 2, the

lithium transition metal complex oxides were not rinsed with water and the pH values were more than 11.0 (see Table 1). In Kotsuki, an alkaline water solution such as NaOH (paragraph [0017]) and an alkaline gradient such as LiOH (paragraph [0014]) are employed upon the preparation of positive active material. Kotsuki does not disclose a rinsing treatment of the positive active material. Therefore, the pH values recited in the claims of the present application would not be inherent in Kotsuki.

For at least the above reasons, removal of the 35 U.S.C. 102(b) rejection and alternative 35 U.S.C. 103(a) rejection of the claims is believed to be in order and is respectfully requested.

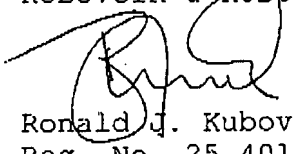
The foregoing is believed to be a complete and proper response to the Office Action dated June 15, 2007, and is believed to place this application in condition for allowance. If, however, minor issues remain that can be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number indicated below.

In the event that this paper is not considered to be timely filed, applicants hereby petition for an appropriate extension of time. The fee for any such extension may be charged to our Deposit Account No. 111833.

In the event any additional fees are required, please also charge our Deposit Account No. 111833.

Respectfully submitted,

KUBOVCIK & KUBOVCIK



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